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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,351	09/28/2005	William Richard Taylor	KIPP:103US	6425

24041 7590 10/16/2009  
SIMPSON & SIMPSON, PLLC  
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EXAMINER
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THEIN, MARIA TERESA T

ART UNIT	PAPER NUMBER
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3627

MAIL DATE	DELIVERY MODE
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10/16/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/551,351

**Applicant(s)**

TAYLOR ET AL.

**Examiner**

MARISSA THEIN

**Art Unit**

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5-14 is/are pending in the application.
- 4a) Of the above claim(s) 1-4 and 15-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/13/06</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of Group II, claims 5-14 in the reply filed on July 13, 2009 is acknowledged.

Claims 1-4 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 13, 2009.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on November 13, 2006 is being considered by the examiner.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 5 recites in the preamble a system claim, however, the body of the claim does not contain any limitations indicating the structure of the device. A system or an apparatus claim should always claim the structure or the hardware that performs the function. Applicant's claimed limitations consist of product information pages and set of product producers and set of product sales organization, etc., which is data per se, and that do not describe the structure of the device. Appropriate correction is required.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 5-14 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 5-14 recites in the preamble “a computer-based product information system” and the body of the claim recites “product information pages”, “set of product producers”, etc., which are data per se. Therefore claim 24 is non-statutory because it is directed towards data, per se, lacking any structure or hardware that performs the function.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claim 5 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,249,772 to Walker.**

Regarding claims 5 and 12, Walker discloses a system comprising: a set of product pages (col. 14, lines 41-51; col. 15, lines 17-27); a set of product producers that comprises each of the product producers within such system that have a means for providing products to said product sales organizations (Figure 6A, col. 15, lines 17-44);

a set of product sales organizations which comprises each of the product sales organizations within such system that have a means for displaying product information pages at points of sales where such means have product selection means for allowing customers to choose which specific product the customer wants to see the product information page (Figure 6B, col. 16, lines 14-24); and an information handling organization where said information-handling organization provides, using the central server, a first correlation list of product information page to individual product sales organization and a second correlation list correlating product producer with product information pages (central controller, col. 5, lines 12-34). Furthermore, Walker discloses means for displaying product information which are owned by the set of product producers (col. 9, lines 44-56).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 6-11 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,249,772 to Walker in view of U.S. Patent No. 6,029,141 to Bezos.**

Walker substantially discloses the claimed invention, however, Walker does not explicitly disclose an authoring a product information page; commission charge;

multimedia display; navigation means; displaying product information are leased by said information handling organization to said product sales organization.

Bezos, on the other hand, teaches an authoring a product information page; commission charge; multimedia display; navigation means; displaying product information are leased by said information handling organization to said product sales organization. (Col. 7, lines 5-60; col. 7, lines 6-20; Figures 3A-3C; Figure 8; col. 5, lines 15-25; col. 11, lines 1-26).

Therefore, It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the system of Walker, to include an authoring a product information page; commission charge; multimedia display; navigation means; displaying product information are leased by said information handling organization to said product sales organization, as taught by Bezos, in order to efficiently attract customers to their web site (Bezos, col. 1, lines 39-40).

### **Election by Original Presentation**

Newly submitted claims 15-22 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the claims are distinct and has separate utility such a system comprising a local server located at the retail sales location and a kiosk located in said retail sales location and linked to said local server. See MPEP § 806.05(d).

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for

prosecution on the merits. Accordingly, claims 15-22 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARISSA THEIN whose telephone number is (571)272-6764. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Marissa Thein/  
Examiner, Art Unit 3627  
October 13, 2009